



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications
and Information
Washington, D.C. 20230

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Honorable James H. Quello
Acting Chairman
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

Re: Amendment of the Commission's Rules to Establish
New Personal Communications Services
(GEN Docket No. 90-314, ET Docket No. 92-100)

Jim
Dear Mr. Chairman:

NTIA believes that the successful development and deployment of a new family of personal communications services (PCS) represents an important telecommunications policy goal for the United States. Because of its significance to the national information infrastructure, PCS will affect jobs, the economy, and international competitiveness. The Commission faces difficult decisions in establishing a market structure and spectrum allocation scheme for PCS. It must carefully weigh the many factors in making these decisions, including the desire to promote competition and the need to utilize efficiently the spectrum resource. We commend the Commission for undertaking this effort.

We understand that the Commission is revisiting some of the proposals advanced in its Notice of Proposed Rulemaking (NPRM) in this docket, issued in August 1992. In addition, since November 1992, when NTIA filed comments with the Commission, there has been a change of Administration, and the Congress has passed legislation that authorizes the Commission to use competitive bidding to assign licenses and requires the FCC to consider certain factors in making such assignments. For these reasons, NTIA offers this letter to express its views on PCS licensing.

With respect to spectrum allocation, it is important that both licensed and non-licensed PCS have sufficient spectrum to make these viable and affordable services. Potential market participants have expressed a keen interest in PCS. NTIA supports an overall allocation of 140-160 MHz for licensed and non-licensed PCS. Such an allocation would provide significantly more spectrum for both categories of PCS than proposed in the Commission's 1992 NPRM. Because of the versatility and flexibility afforded consumers by non-licensed wireless services, the allocation for such services should be increased from the 20 MHz proposed in the 1992 NPRM to 35-40 MHz.

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List A B C D E

The Commission should allocate a total of 100-120 MHz for licensed PCS, and, to the extent possible, should divide that overall allocation into three licenses of 30 MHz each with additional licenses of 10-15 MHz each.^{1/} All such licenses should be assigned using competitive bidding, consistent with legislation passed by the Congress and signed by President Clinton on August 10, 1993. Such a division would promote competition in wireless services, and the benefits it can bring consumers, by permitting a large number of PCS providers to compete in the marketplace.

A number of parties have suggested reasons why the Commission should award licenses that are large or small relative to each other (usually 40 MHz versus 20 MHz). Indeed, "relatively small" spectrum blocks offer several benefits. The Commission could award more licenses than with larger blocks. With more licenses available, these relatively small licenses could be less expensive to obtain through auction, making it easier for some parties, such as small, innovative enterprises and rural telephone companies, to participate in the initial bidding.

In addition, use of small blocks recognizes that technology is becoming more spectrum efficient. Arguments that large blocks -- up to 40 MHz -- are necessary for a viable PCS system are often based on an assumption that existing microwave users will continue to occupy the same spectrum. However, after a three-year transition period, PCS licensees will be able to move most microwave users out of the 2 GHz bands by offering to pay for replacement systems that operate at higher frequencies. Even prior to the expiration of the three-year period, licensees will be permitted to negotiate with incumbent users for the right to use spectrum (including public safety users not otherwise required to relocate), and it is likely that much spectrum will be cleared even before systems are deployed. In light of these relocation options available to deal with possible interference problems with incumbent microwave users, 40 MHz may be more spectrum than is really needed to provide PCS.

1/ The number of "smaller" (i.e., 10-15 MHz) licenses will depend on both the total amount of spectrum allocated to licensed PCS and the precise frequencies allocated. For example, we understand that the Commission may allocate to licensed PCS some spectrum below 2 GHz and some above 2.1 GHz. The particular configuration chosen will affect the total number of licenses available in any area.

We note, however, that "relatively large" blocks also have certain advantages. The costs of relocating existing users may be less with larger blocks because, in some markets, a larger allocation may give a licensee the flexibility to avoid certain frequencies now encumbered with microwave users. Moreover, larger allocations would enable PCS licensees to offer alternative services to consumers, such as larger bandwidth data or imaging services, more quickly and more cheaply than would be the case with smaller allocations. Also, equipment costs may be lower with larger allocations, and we note the support of certain major equipment suppliers for that approach.

Overall, however, NTIA believes that the largest amount of spectrum included in a license should be less than 40 MHz, and preferably should be 30 MHz. Some parties have suggested that the Commission take a bifurcated approach, i.e., award a combination of "large" and "small" PCS licenses. NTIA supports such an approach because the Commission could award a greater number of licenses than is possible by awarding only large licenses, while still creating licenses of a sufficient size to provide a variety of services at a reasonable cost. Licenses of 30 MHz² along with additional, smaller licenses of 10 or 15 MHz would promote efficiency in use of the spectrum resource, increase the number of potential competitors, and create blocks more affordable to "shallow pockets."

NTIA believes that incumbent cellular providers should be barred from bidding for the 30 MHz licenses within their current service areas. At the advent of this new service, PCS is likely to be substantially similar to existing cellular service. One of the public policy goals of this proceeding should be to create opportunities for greater competition in the provision of cellular-like mobile telephony services. Allowing incumbent cellular firms, which already have 25 MHz of valuable spectrum in their license areas, to acquire another 30 MHz of spectrum in the PCS band would not advance this pro-competitive goal.

2/ An allocation of 30 MHz blocks may somewhat complicate the task of PCS licensees in negotiating with incumbent microwave users for access to spectrum. However, in light of the presence of so-called "interstitial" microwave users in these bands, any allocation plan, including one based on 20 MHz or 40 MHz blocks, raises some complexity in negotiation. We do not believe that these factors will create unduly burdensome problems for PCS licensees or should lead the Commission to forego the other benefits of 30 MHz allocations.

Because the bifurcated approach suggested by NTIA would permit entry to PCS markets by more parties than envisioned in the Commission's NPRM, it would increase the potential for additional new PCS licensees and reduce concerns that existing cellular providers will engage in anticompetitive practices.^{3/} Accordingly, NTIA believes that each incumbent cellular provider should be permitted to compete for no more than one of the 10 or 15 MHz licenses in its current service area.^{4/} This new spectrum could complement the 25 MHz that current cellular licensees each already hold in their respective service areas. Taken in combination, the existing cellular spectrum and the new PCS spectrum could allow cellular operators to provide more advanced services than at present.^{5/} At the same time, it could help maintain a competitive balance between existing cellular operators and new PCS providers.

The geographic scope of the licenses to be awarded also presents a difficult task of balancing competing goals. On the one hand, NTIA believes that a wide variety of businesses should be able to bid for licenses through the auction process, which will not occur if the areas are "too large." By the same token, a licensee should not be required to bid on an area larger than it intends to serve or can serve well. If PCS turns out to be a service most efficiently offered on a regional or national basis, providers may obtain large areas by bidding on multiple areas or aggregating areas in post-bidding transactions. The 47 Rand McNally Major Trading Areas (MTAs), of which there are three fewer than the total number of states, appear to be too large to meet these objectives.

On the other hand, there are costs associated with creating geographic license areas that are "too small." If the Commission

3/ Inasmuch as cellular licensees' PCS licenses would grant use of a considerably smaller amount of spectrum than the 30 MHz PCS licenses held by non-cellular providers -- and the proposed licensing arrangement would allow for the issuance at least five PCS licenses in each service area -- the risk of anticompetitive behavior would be minimized.

4/ NTIA believes that such licenses should be open to all otherwise eligible bidders. The smaller blocks should not be "reserved" in any sense for bidding by cellular providers only.

5/ The ability of existing cellular firms to provide such services is limited by, among other things, the large number of existing cellular subscribers with analog equipment using the current 25 MHz allocation.

uses Rand McNally's 487 Basic Trading Areas (BTAs), and conducts auctions separately for 5 licenses for each area, for example, it would have to conduct 2,435 auctions -- almost a thousand more licenses than were awarded for cellular radio. There would be even more auctions, of course, if the 734 cellular Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs) were used. Not only would this be a major undertaking for the Commission, it could delay PCS service to millions of consumers. Service would be further delayed if parties must engage in a lengthy process to aggregate very small license areas into large areas, as was frequently done in the cellular service. In addition, service providers would face additional costs in coordinating interference among geographic areas.^{6/}

A reasonable solution would be to define geographic areas somewhere between the sizes of MTAs and BTAs. The Commission should not be limited by the fact that Rand McNally & Company produced only two sets of areas, different in size by a factor of ten, based largely on the same initial data. We recommend that the Commission consider alternatives such as the "economic areas" defined by the federal government. These 183 areas, developed by the Department of Commerce's Bureau of Economic Analysis (BEA), are based on factors similar to those used by Rand McNally to create the MTAs and BTAs, but are designed specifically to include, to the extent possible, the "commuting patterns" -- the place of work and the place of residence -- of their work forces.^{7/}

Finally, the Commission must also keep in mind that PCS licenses will be assigned through the competitive bidding process. In the legislation authorizing competitive bidding, Congress directed the FCC to consider the needs of small businesses, rural telephone companies, and businesses owned by members of minority groups and women in a competitive bidding process. We encourage the Commission to develop rules to implement competitive bidding for PCS that will provide for greater opportunities for participation by groups currently

6/ Whatever the geographic service areas selected, the Commission should adopt rules requiring interoperability and seamless roaming among license areas and among providers in order to ensure user convenience and to quickly meet the needs of large users such as government agencies.

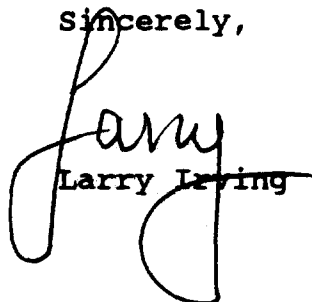
7/ BEA and Rand McNally both began with metropolitan areas defined by the Bureau of the Census and county lines. Both the BEA and Rand McNally then aggregated areas taking into account various economic and transportation considerations.

Honorable James H. Quello
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under-represented in telecommunications industries. The nature and extent of the economic opportunities that will be available in PCS for a wide variety of applicants also depend in important respects on the allocation decisions made in this proceeding. Accordingly, the Commission should keep these factors in mind in designing its allocation plan for PCS.

Thank you for considering the views of NTIA.

Sincerely,



Larry Irving

cc: Honorable Andrew C. Barrett
Honorable Ervin S. Duggan

**United States Telephone Association**

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September 13, 1993

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: Ex Parte Meeting
CC Docket No. 90-314 and ET Docket No. 92-9

Dear Mr. Caton,

On September 7, 1993, John Dillard of Monroe Telephone and Kathy Woods of USTA, representing the United States Telephone Association (USTA), met with the following person(s) at the Commission: David Siddall, Chief, Frequency Allocation Branch. This ex parte letter is filed late because the attendees were not clear that these issues required a filing in light of the recently enacted statute.

The purpose of the meeting was to discuss broadband personal communications services (PCS), a matter that is currently at issue in the above-captioned proceeding. The points made by USTA related to rural telephone companies' eligibility and service concerns, the relationship between Basic Trading Area and cellular area definitions, the definition of a "rural area" company, and spectrum reservations, which have already been addressed generally in USTA filings. Discussion of any other issues would have been reflected in USTA filings already on file. No document was left with the Commission.

The original and two copies of this notice are being filed in the Office of the Secretary on September 13, 1993. Please include a copy in the public record.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Martin T. McCue".

Martin T. McCue
Vice President and General Counsel

cc: D. Siddall

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